
From: Fail, Garrett [mailto:Garrett.Fail@weil.com]
Sent: Friday, February 21, 2014 5:03 PM
To: Vasser, Shmuel
Cc: Brilliant, Allan
Subject: Re: Lehman-Stonehill

Shmuel,

Although we are under no obligation to advise you in advance as to what authorities we may cite in any reply, as an accommodation to you and in response to your request, we may rely, without limitation, on some or all of the following:

- 11 U.S.C. §§ 105(a), 502(c), 1123(a)(4), and 1142(b);
- Fed. R. Bankr. P. 9014; and
- the case law cited in support of the following orders/decisions, which are law of the case;
 - o Order Authorizing Use Of Non-Cash Assets In Lieu Of Available Cash As Reserves For Disputed Claims Pursuant To Section 8.4 Of The Debtors' Confirmed Joint Chapter 11 Plan [ECF No. 25641];
 - o Order Denying Objection To Motion Of Lehman Brothers Holdings Inc. For Authority To Use Non-Cash Assets In Lieu Of Available Cash As Reserves For Disputed Claims Pursuant To Section 8.4 Of The Debtors' Confirmed Joint Chapter 11 Plan [ECF No. 27196];
 - o Order Granting Motion Of Lehman Brothers Holdings Inc. And Lehman Brothers Special Financing, Inc. To Estimate Claims Filed By Citadel Equity Fund Ltd. For Purposes Of Establishing Reserves [ECF No. 27112]; and
 - o *In re Lehman Brothers Holdings Inc.*, Case No. 08-13555 (JMP), Tr. of Jan. 26, 2012 Hr'g, at 16:22 – 17:11.

Of course, until we have had the opportunity to review any response you may file, we cannot anticipate everything we might argue or rely upon. All of the Plan Administrator's rights are reserved.

Garrett

On Feb 21, 2014, at 11:22 AM, "Vasser, Shmuel" <shmuel.vasser@dechert.com> wrote:

Dear Garrett, section 8.4 of the Plan includes language that you deleted when citing the section in your motion. The full portion of paragraph 8.4(b) reads: "*the amount determined, to the extent permitted by the Bankruptcy Code and Bankruptcy Rules*, by the Bankruptcy Court for purposes of fixing the amount to be retained for such Disputed Claim" (emphasis added). The emphasized language has been omitted by you from the motion.

We are not aware of any Bankruptcy Code section or Bankruptcy Rule that permits the relief you are seeking. We hereby request that you provide us by the end of business today the Code section, Rule and any case law you intend to rely on in support of your motion. As you are aware, we should be able to fully respond to your motion, rather than discover it's legal basis and supporting authorities in your reply, to which we are not allowed to respond.

Your failure to respond as requested herein, will result in us seeking to strike any basis of your motion to be contained in a reply that is not asserted in your motion or otherwise provided to us as requested herein. Best,

Shmuel Vasser
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